

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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FERNANDO HERNANDEZ, KENNETH CHOW,  
BRYANT WHITE, DAVID WILLIAMS, MARQUIS  
ACKLIN, CECILIA JACKSON, TERESA JACKSON,  
MICHAEL LATTIMORE, and JUANY GUZMAN, each  
individually, and on behalf of all other persons similarly  
situated,

Plaintiffs,

-against-

Case No.:  
12-CV-4339 (ALC)(JLC)

**NOTICE OF MOTION**

THE FRESH DIET, INC., LATE NIGHT EXPRESS  
COURIER SERVICES, INC. (FL), FRESH DIET  
EXPRESS CORP. (NY), THE FRESH DIET – NY INC.  
(NY), FRESH DIET GRAB & GO, INC. (FL) a/k/a YS  
CATERING HOLDINGS, INC. (FL) d/b/a YS  
CATERING, INC. (FL), FRESH DIET EXPRESS CORP.  
(FL), SYED HUSSAIN, Individually, JUDAH SCHLOSS,  
Individually, and ZALMI DUCHMAN, Individually,

Defendants.


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**PLEASE TAKE NOTICE** that upon the annexed Declaration of Jeffery A. Meyer, the exhibits attached thereto, Defendants' Rule 56.1 Statement of Undisputed Facts, the accompanying Memorandum of Law, and upon the pleadings and proceedings had herein, Defendants will move this Court on February 28, 2014, or as soon thereafter as counsel can be heard, before the Honorable Andrew L. Carter, Jr., at the United States District Court, Southern District of New York, 500 Pearl Street, New York, New York, for an Order, pursuant to Fed. R. Civ. P. 56, dismissing Plaintiffs' Complaint against them, with prejudice, or, if such motion is denied, decertifying the collective action, and granting such other and further relief that the Court deems necessary and proper.

**PLEASE TAKE FURTHER NOTICE**, that, opposition briefs, if any, must be served on or before February 14, 2014 as set forth in the Court's Order dated January 8, 2014, unless otherwise directed by the Court.

**PLEASE TAKE FURTHER NOTICE** that Defendants intend to file and serve a reply to Plaintiffs' opposition answering papers, if any, on or before February 28, 2014, as set forth in the Court's Order dated January 8, 2014, unless otherwise directed by the Court.

Dated: Woodbury, New York  
January 24, 2014

Respectfully submitted,  
KAUFMAN DOLOWICH & VOLUCK, LLP

By:   
Jeffery A. Meyer, Esq.  
Yale Pollack, Esq.

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